



HOUSING JUSTICE IN UNEQUAL CITIES

EDITED BY ANANYA ROY AND HILARY MALSON



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Segregatory Consequences of the Carceral State

Rahim Kurwa, University of Illinois at Chicago

This essay argues for a bridging of carceral studies and housing justice research.¹ To illustrate the value of this approach, I focus one area of significant intersection between the two fields: how segregation and carcerality relate to each other. I describe how the country's systems of policing and punishment not only take advantage of but also produce racial residential segregation—the latter of which I refer to as carceral segregation. From this analysis, it becomes clear that housing justice requires an abolitionist approach to the country's systems of policing and punishment.

Why consider the relationship between carcerality and segregation?

Fifty years after the passage of the Fair Housing Act (FHA), designed to ban discrimination in the sale or rental of housing, the degree of racial residential segregation has declined slowly, and remains relatively high for Black residents relative to other minority groups.² Because access to resources and power are tied to where one lives, segregation is often understood as the foundation upon which extreme racial inequality is built. Too often though, this perspective functions to silo segregation from other axes of racial inequality.

One way this perspective obscures as it illuminates is in what it leaves out from the explanations of why segregation has remained persistent. These explanations often revolve around personal preferences, discrimination at the individual level, lack of access to financial resources, institutional barriers, and local, state, and federal policies that entrench segregation. But missing from these accounts is the role of policing and punishment in shaping access to neighborhoods and housing.

1 By carceral I refer to a broad view of the country's policing and punishment mechanisms, one which includes not just police, courts, jails, and prisons, but also homeland security, border enforcement, surveillance technologies, punitive law and policy, and so on. See more here: <http://www.processhistory.org/the-size-and-scope-of-the-carceral-state/>

2 Logan 2013.

In this piece I suggest that we consider the carceral state—broadly, the policing and punishment functions of local, state, and federal government—as an important mechanism of creating and entrenching racial residential segregation. Particularly as the country’s systems of policing and punishment have grown and diffused since the early 1900s, the ways that these systems build upon or themselves create racial segregation become increasingly important. Rather than functioning as separate pillars of racial inequality, segregation and carcerality are better understood as intertwined.

We already know segregation facilitates policing and punishment

Existing work illustrates the many ways policing takes advantage of or builds upon segregation. Black and Brown men and women living in segregated urban areas experience extreme policing and persistent surveillance, itself a form of intimidation, stigmatization, and punishment that transforms the relationship between members of these groups and the state.³ Take, for example, Victor Rios’ work on the policing of Black and Brown youth in Oakland.⁴ There, the extreme surveillance and policing of these young people was made possible in part by racial segregation and concentration. Without a segregated geography making it so possible to police a subjugated group, these tactics might be more difficult to accomplish, or the state would need to achieve its ends through other means. In Los Angeles, the Million Dollar Hoods project maps the scale of carceral spending at the neighborhood level, illustrating just how spatially targeted the city and county’s punishment systems are.⁵

Looking to other cities, we see the rise of stop and frisk tactics, police sweeps, traffic stops, broken windows policing, and expansion of criminal and civil codes as other opportunities to surveil, police, and assert control—each of which relies on having access to minority groups in relatively defined areas. And this is not just about segregation in cities: evidence from Ferguson suggests that these tactics operate in segregated suburbs as well—where police can easily stop, detain, fine, and imprison Black residents without even inconveniencing whites in adjacent areas.⁶ Here Soss and Weaver’s analysis suggests that policing is used to govern segregation.⁷

If we accept that in these cases, the state takes advantage of racial segregation to deploy extreme versions of policing upon particular minority groups, then the corollary questions are whether and how the relationship between policing and segregation operates in the other direction. Setting aside how policing and punishment follow segregation, we might also consider how policing and punishment creates segregation. I argue that we should think of the relationship between systems of policing and punishment and patterns of racial segregation as bi-directional—policing can take advantage of racial segregation, and it can create racial segregation.

Turning to carceral segregation

In what follows, I sketch out examples of policing and punishment interacting with the housing market and suggest ways that these interactions might entrench racial segregation. I organize this review from broad to narrow—starting with how policing and punishment restrict people’s access to neighborhoods, then how these forces restrict people’s access to housing within those neighborhoods, and finally how they shrink people’s feelings of safety within their own homes.

3 *Anderson 2013; Herbert 1997; Jones 2009; Rios 2011.*

4 *Rios 2011.*

5 See: <http://milliondollarhoods.org/>

6 *Boyles 2015; Lowery 2016.*

7 *Soss and Weaver 2017.*

Access to neighborhoods

The spatial implications of the most prominent aspects of the carceral state—jails and prisons—have been well-identified by scholars such as Ruth Wilson Gilmore.⁸ But the extension of the nation's systems of punishment outside of these physical structures also has implications for an analysis of race and space, functioning as a powerful tool of what Ananya Roy terms racial banishment.⁹ While the literature on banishment illustrates many pathways of expulsion that are segregatory, in what follows, I focus on three examples tied to policing and punishment: gang injunctions, mental health courts, and gentrification.

Ana Muñiz's work on gang injunctions in Los Angeles illustrates the way that these policies banish Black and Brown men from neighborhoods.¹⁰ Once the city has secured an injunction against a gang, a police department is empowered to determine who it believes is a member of that gang, and to enforce the injunction against them. The injunctions impose significant restrictions on their ability to live within the boundaries in which the injunction is enforced. Muñiz documents how these injunctions are applied to members of a community based largely on racial stereotypes or racialized proxies for gang membership (how one looks, how one is dressed, whom one is seen with). Once included in the injunction, a person's rights are constrained and his liability for incarceration and punishment by the state increases dramatically. One adaptation described by affected individuals is to temporarily or permanently leave the boundaries of the injunction, thereby lowering risk to themselves and their communities. The injunction, therefore, illustrates a case of policing advancing segregation by facilitating the removal of men of color from urban space through their targeted criminalization.

Meanwhile, in Chicago's mental health courts, Julian Thompson documents how similar processes of spatial regulation force people involved in the criminal legal system out of predominantly Black neighborhoods.¹¹ Mental health courts are targeted at individuals who are arrested for non-violent felonies who also have mental health or substance abuse problems. They allow these individuals to avoid imprisonment by participating in a court monitored community level rehabilitation program. Thompson documents how judges in these courts advise program participants (including whites) not to live in or return to neighborhoods on Chicago's predominantly Black west and south sides and suggest that moving to or remaining on the predominantly white north side would be better for their own lives, would help them avoid relapsing into drug use, and would be viewed favorably by the court when it made a final determination of whether they are making improvements sufficient to merit completion of the program (thereby avoiding imprisonment). In this way the court is essentially mandating segregation as a condition of staying out of prison.

Finally, combining data on gentrification and the deployment of Stop and Frisk tactics by police across New York City, Laniyonu finds that while census tracts experiencing gentrification do not themselves experience higher levels of policing, the tracts surrounding them see higher rates of aggressive policing of young Black and Brown men.¹² Legewie and Schaeffer analyze local 311 calls to show that at fuzzy racial boundaries, including those indicating ongoing gentrification, tenants increase their rates of 311 calls—deploying the state to police race.¹³ These findings suggest the possibility of further displacement, the advancement of gentrification, or the prevention of access to a recently gentrified space.

8 Gilmore 2007.

9 Roy 2017.

10 Muñiz 2015.

11 Thompson 2019.

12 Laniyonu 2017.

13 Legewie and Schaeffer 2016.

Access to housing

The recent case of Matthew Charles exemplifies how landlords' use of criminal records as grounds to deny a rental application functions to extend the racial inequality of the criminal legal system to the housing market.¹⁴ Freed after a 22-year sentence for a non-violent drug related offense, Charles found employment and purchased a car in his home state of Tennessee, overcoming two large hurdles in the process of re-entering the community. However, his rental application at a unit he felt best suited his needs was denied because of his prior criminal record and lack of credit history. Because federal housing support for low-income households excludes those with criminal backgrounds, this option was also cut off from him. These conditions force people leaving the system into a neighborhood they prefer less but which will not discriminate on the basis of prior criminal record. This dynamic will be segregatory if the distribution of landlords who will and will not discriminate on the basis of prior criminal record matches or approximates the distribution of race across neighborhoods in a given municipality. In Charles' case, extraordinary public attention and crowd-sourced assistance found him a willing landlord. But those without such remedy will likely continue to find themselves pushed to the margins of the housing market.

This mechanism of exclusion also appears in the way that immigration is policed and regulated.¹⁵ Anti-immigrant housing ordinances passed in cities around the country attempt to bar landlords and property owners from renting to undocumented immigrants or penalize them for having done so. According to the Immigration Policy Center, as of 2007, 104 municipalities in 28 states had adopted such ordinances.¹⁶ Their adoption was "not correlated with the size of a locality's foreign-born or Latino population, but with a rapid increase in the foreign-born or Latino share of the population, especially since 2000." In other words, adoption of ordinances aimed at denying undocumented residents access to housing are an attempt to preserve white dominance of neighborhood space. These rules are likely to push undocumented people to informal housing arrangements, landlords willing to skirt the law, or to other municipalities altogether. This dynamic can have racialized, and therefore segregatory, implications.

Safety from eviction

Beyond access to neighborhoods and housing, residents may also find themselves targeted for eviction and policing in their homes, in ways that have segregatory impacts. Crime-free housing and nuisance ordinances vary across municipalities but generally enact strict rules that push landlords to evict tenants on the basis of 911 service calls to their units (including calls tenants themselves make for assistance) or make landlords include clauses in leases making criminal activity (broadly defined) grounds for eviction. Research in Milwaukee illustrates how these regulations disproportionately affect women who report incidents of domestic violence to the police and are exposed to eviction on account of it.¹⁷ In Los Angeles, white residents have been documented weaponizing nuisance ordinances to file complaints about Black neighbors and pressure their landlords to evict them. In Faribault, Minnesota, the ACLU finds a more extreme version of crime-free housing rules that allow police to tell landlords to evict tenants if they suspect them of engaging in "even minor criminal activity, even if the person is not prosecuted and even if they are found not guilty in a criminal case."¹⁹ The rules were adopted after a large number of Somali residents moved into the area.

14 See: <https://www.tennessean.com/story/news/2019/03/08/matthew-charles-released-prison-clemency-struggles-find-nashville-housing/3103611002/>

15 While immigration is formally considered part of civil law, following many scholars of crimmigration, I treat it here as part of the carceral state.

16 See: <https://americanimmigrationcouncil.org/sites/default/files/research/IPC%20Special%20Report%20PR.pdf>

17 Desmond and Valdez 2013.

18 Ocen 2012; Hayat 2016.

19 See <https://www.aclu.org/blog/racial-justice/race-and-economic-justice/minnesota-citys-ordinance-illegally-targets-people>

What the above dynamics illustrate, however, is the importance of situating law enforcement in the racialized and segregatory eviction process itself. Evictions are often cast as emblematic of the cruelty and inequality embedded in the private housing market, and indeed they are. But in states and municipalities across the country, it is sheriffs who are at the heart of the process—enforcing the landlord’s claim that the tenant is no longer a lawful resident and making it more difficult for tenants to assert their claims to rightful residency. So to the extent that we see eviction as a segregation problem, by implication policing is part of that system—placing the power of the state in the hands of landlords.

Finally, beyond the formal role of police in the segregation process, we can also see an expansion of policing practices as potential mechanisms of protesting or re-asserting racial segregation. The application Nextdoor, for example, has been cited in numerous cases as functioning as a platform for the surveillance and policing of race by white residents both in cases where they surveil Black residents moving in, and in cases where they use the application to assert power of neighborhoods they are gentrifying.²⁰

What this means for housing justice

So far, I have focused on how systems of policing and punishment can function to racially segregate. But it is also true that policing segregates through shaping people’s understanding of their own safety. Monica Bell’s work suggests that Black residents avoid moving to neighborhoods that they know to be heavily policed or policed in a discriminatory manner.²¹ In this manner the policing that locks people into segregated neighborhoods signals to others that they should avoid those neighborhoods for fear of similar treatment as well.

How can all of this inform a definition of housing justice? I think three conclusions are worth making.

²⁰ Kurwa 2019.

²¹ Bell 2019.

First, in cases like crime-free housing ordinances or bans on renting to undocumented tenants, I have only offered a conceptual link between punitive policies and segregation. Further work can be done to determine whether, how, and to what extent these policies have segregatory impacts.

Second, the broad evidence outlined here should indicate that scholars and activists focused on segregation, and particularly forms of segregation which tie material resources and access to power to space, must grapple with the ways the country’s expansive regimes of punishment and policing function to segregate society.

Third, this evidence suggests that the abolitionist framework built in response to the growth of the carceral state also has radical implications for housing justice. Although reforms could address each policy on a one-by-one basis, taking stock of them as a whole suggests a more radical conclusion: without addressing the carceral state we cannot break the link between where one lives and what resources one has access to. The abolitionist approach to the carceral state has clear implications for housing justice: it would create a society in which the force of the law cannot be used to prevent someone from living in a particular neighborhood or renting a home and in which tenants could not be evicted on the basis of virtually any law enforcement encounter. Abolition means not treating tenants as potential criminals, not being told by a judge where you can and cannot live in order to meet your rehabilitation metrics, not being evicted by a sheriff, and not being subject to racial banishment.

This is not the first paper to suggest that abolition has much to offer housing justice. Tommie Shelby has argued for an abolitionist approach to the ghetto, as a break from essentially neoliberal policy trajectories that focus on individuals rather than structures, and that force integration as a solution (rather than or without redistribution or reparations).²² But when considering the links between segregation and the country's systems of policing and punishment, we can see just how deeply the abolitionist framework connects both sites of racial inequality. Following Shelby, we should not only apply an abolitionist framework to housing justice, but also recognize how prison abolition in and of itself contributes to housing justice, and thus how much stake people involved in housing justice research and action have in abolition's success. ■

²² Shelby 2016.

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